

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

E. JEAN CARROLL,

Plaintiff,

v.

DONALD J. TRUMP,

Defendant.

No. 22 Civ. 10016 (LAK)

JOINT PRETRIAL ORDER

The parties having conferred among themselves and with the Court pursuant to Fed. R. Civ. P. 16, the following statements, directions and agreements are adopted as the Pretrial Order herein.

I. NATURE OF THE CASE

A. Plaintiff's Proposed Statement of the Case

In the fall of 1995 or spring of 1996, Plaintiff E. Jean Carroll, a journalist, writer, and advice columnist, encountered Defendant Donald J. Trump at the Bergdorf Goodman department store in New York City. Playful banter took a dark turn when Trump seized Carroll, forced her up against a dressing room wall and pinned her in place with his shoulder. He pulled down Carroll's tights, pushed his fingers around Carroll's genitals, and forced his penis inside her. After Carroll managed to escape, she immediately called her friend Lisa Birnbach and told her what had happened. A day or two after the rape, Carroll confided in another close friend, Carol Martin. Carroll blamed herself for what had happened, felt embarrassment and shame, and feared what would happen if she spoke out. She swore her two friends to secrecy and did not speak about the rape again for more than two decades.

Everything changed for Carroll in 2017 when she was on a road trip interviewing women for a book she planned to write about their experiences with men. Inspired by the #MeToo movement, Carroll decided to include in her book her own negative experiences with men, including Trump's attack at Bergdorf's many years before. Carroll's book was published in 2019, and in advance of its release, on June 21, 2019, New York Magazine published an excerpt containing, among other things, Carroll's account of being raped by Trump. Trump responded by publicly, falsely, and maliciously smearing Carroll's reputation three times over a four-day period.

Then, on October 12, 2022, Trump repeated many of these defamatory claims in a statement posted on Truth Social and distributed to the press. Trump denied that he raped Carroll and falsely stated that he had no idea who Carroll was. He also implied that Carroll had lied about the rape to increase book sales. And he insulted her physical appearance, suggesting that he could not have attacked her because "[t]his woman is not my type"—in other words, Carroll was too unattractive for him to have raped her. Trump made his October 12 statement knowing full well that it was false.

Trump's sexual assault has caused Carroll to suffer lasting psychological harms, loss of dignity and intimate relationships, and invasion of her privacy. Additionally, Trump's October 12 defamatory statement caused Carroll to suffer reputational, emotional, and professional harm. She seeks compensatory and punitive damages to remedy the harms that Trump has caused and demands that Trump retract his defamatory statement.

B. Defendant's Proposed Statement of the Case

Plaintiff's contentions arise out of an alleged incident which she claims occurred at the Bergdorf Goodman store in New York, New York on an uncertain date "between the fall of 1995 and the spring of 1996." There were no eyewitnesses to this alleged incident nor is there any

photographic or video evidence of this purported incident at Bergdorf Goodman. In fact, there is no evidence whatsoever that this alleged incident occurred, other than the uncorroborated allegations by Plaintiff. In sum, Defendant wholly denies the veracity of Plaintiff's claims and maintains that his denial of her allegations was truthful. To that end, the Defendant's psychiatric expert, Dr. Ian V. Lamoureux, will be conducting an IME and evaluation of the Plaintiff, with Defendant's psychological expert, Jill Hayes, Ph.D., and will render an expert opinion as to the nature and extent of psychiatric and/or psychological damages sustained by the Plaintiff, if any, as a result of the alleged incident.

On October 12, 2022, Defendant justifiably responded to Plaintiff's false accusations of the purported sexual assault by denying them again in a statement posted on Truth Social. Notwithstanding Plaintiff's allegations to the contrary, Ms. Carroll did not sustain significant reputational or economic harm as a result of the October 12, 2022 statement made by the Defendant on Truth Social.

Accordingly, Defendant respectfully demands judgment dismissing the Complaint in its entirety together with costs, disbursements, and all other relief this Court deems just and proper.

II. JURY/NON-JURY

Carroll and Trump both request that this action be tried by jury. The parties estimate that the trial will take between 5 and 7 days.

III. STIPULATED FACTS

None.

IV. EXHIBITS

No exhibit not listed below may be used at trial except (a) for cross-examination purposes, (b) by plaintiff on rebuttal, or (c) if good cause for its exclusion from the pretrial order is shown.

A. Plaintiff's Exhibits

The following is a list of exhibits Plaintiff intends to offer in her case-in-chief:

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-1	Trump's June 21, 2019 statement (Laura Litvan tweet) (Defendant Dep. Ex. 20)			
PX-2	Trump's June 22, 2019 statement (transcript of remarks before Marine One departure) (MP-001795) (Defendant Dep. Ex. 21)			
PX-3	Trump's June 24, 2019 statement (article from <i>The Hill</i> : Jordan Fabian and Saagar Enjeti, <i>Trump Vehemently Denies E. Jean Carroll Allegation, Says "She's Not My Type"</i>) (Defendant Dep. Ex. 22)			
PX-4	Trump's October 12, 2022 statement (Truth Social post) (Defendant Dep. Ex. 28)			
PX-5	E. Jean Carroll's book: <i>What Do We Need Men For? A Modest Proposal</i> (2019) (Defendant Dep. Ex. 19)	Hearsay		
PX-6	<i>New York Magazine</i> article: <i>Donald Trump Assaulted Me in a Bergdorf Goodman Dressing Room 23 Years Ago. But He's Not Alone on the List of Awful Men in My Life</i> (June 21, 2019) (online version) (Plaintiff Dep. Ex. 4)	Hearsay		
PX-7	<i>New York Magazine</i> article: <i>Donald Trump Assaulted Me in a Bergdorf Goodman Dressing Room 23 Years Ago. But He's Not Alone on the List of Awful Men in My Life</i> (June 24, 2019) (print version) (CARROLL_024386, Plaintiff Dep. Ex. 3 (cover); CARROLL_024378 (article))	Hearsay		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-8	<i>New York Magazine</i> article: Lisa Birnbach, <i>Mi Casa Es Su Casa</i> (Feb. 12, 1996) (Defendant Dep. Ex. 1)	Hearsay		
PX-9	<i>People</i> article: Natasha Stoynoff, <i>Happy Anniversary</i> (Jan. 16, 2006)	Hearsay		
PX-10	Publishing contract between E. Jean Carroll and St. Martin's Press, dated June 8, 2018 (CARROLL_015939)			
PX-11	Contract between E. Jean Carroll and Hearst Magazine Media, dated January 28, 2019 (CARROLL_025665)			
PX-12	Photo of E. Jean Carroll, John Johnson, Donald J. Trump, and Ivanka Trump (CARROLL_030211) (Defendant Dep. Ex. 23; Plaintiff Dep. Ex. 2)			
PX-13	Photo of E. Jean Carroll from Miss Indiana photo shoot (CARROLL_030203)			
PX-14	Photo of E. Jean Carroll in 1998 (CARROLL_030201)			
PX-15	Photo of E. Jean Carroll eating at a restaurant, for the "Ask E. Jean" column (CARROLL_030242)			
PX-16	Photo of E. Jean Carroll looking out a window, for the "Ask E. Jean" column (CARROLL_030229)			
PX-17	Photo of Natasha Stoynoff with Donald Trump and others at Mar-a-Lago in December 2005	Irrelevant & unduly prejudicial		
PX-18	Photo of Jessica Leeds in 1978	Irrelevant & unduly prejudicial		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-19	Television graphic for <i>Ask E. Jean</i> Show (1995)			
PX-20	Bergdorf Goodman floorplan, dated March 23, 1990 (BG_0001)			
PX-21	Bergdorf Goodman floorplan, dated November 8, 1999 (BG_0011)			
PX-22	Bergdorf Goodman Fifth Avenue Sixth Floor Construction Plan, dated May 19, 1995, and certified by the New York Department of Buildings (CARROLL_030804)			
PX-23	Bergdorf Goodman Fifth Avenue Sixth Floor Construction Plan, dated May 19, 1995, and certified by the New York Department of Buildings (CARROLL_030809)			
PX-24	Bergdorf Goodman Fifth Avenue Sixth Floor Plan, dated April 12, 1996, and certified by the New York Department of Buildings (CARROLL_030840)			
PX-25	Access Hollywood video recording of Donald J. Trump speaking to Billy Bush in September 2005 (Defendant Dep. Ex. 35)	Irrelevant & unduly prejudicial		
PX-26	September 26, 2016 Presidential debate video (Stoynoff Dep. Ex. 3; Leeds Dep. Ex. 1)	Irrelevant & unduly prejudicial		
PX-27	October 13, 2016 West Palm Beach campaign rally video (14:28-15:32) (Defendant Dep. Ex. 40)	Irrelevant & unduly prejudicial		
PX-28	October 13, 2016 West Palm Beach campaign rally video (17:32-17:57)	Irrelevant & unduly prejudicial		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-29	October 13, 2016 West Palm Beach campaign rally video (17:58-19:23) (Defendant Dep. Ex. 36)	Irrelevant & unduly prejudicial		
PX-30	October 14, 2016 Greensboro, NC campaign rally video (17:10-18:30)	Irrelevant & unduly prejudicial		
PX-31	October 14, 2016 Greensboro, NC campaign rally video (24:34-25:06) (Defendant Dep. Ex. 38)	Irrelevant & unduly prejudicial		
PX-32	October 21, 2016 Gettysburg, PA campaign rally video (9:44-10:06)	Irrelevant & unduly prejudicial		
PX-33	Video recording of the deposition of Cande Carroll dated October 4, 2022	Hearsay		
PX-34	Video recording of the deposition of Stephanie Grisham dated October 6, 2022	Hearsay		
PX-35	Video recording of the deposition of Natasha Stoyloff dated October 13, 2022	Irrelevant & unduly prejudicial		
PX-36	Video recording of the deposition of Jessica Leeds dated October 13, 2022	Irrelevant & unduly prejudicial		
PX-37	Video recording of the deposition of Donald J. Trump dated October 19, 2022			
PX-38	Transcript of the deposition of Cande Carroll dated October 4, 2022	Hearsay		
PX-39	Transcript of the deposition of Stephanie Grisham dated October 6, 2022	Hearsay		
PX-40	Transcript of the deposition of Natasha Stoyloff dated October 13, 2022	Irrelevant & unduly prejudicial		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-41	Transcript of the deposition of Jessica Leeds dated October 13, 2022	Irrelevant & unduly prejudicial		
PX-42	Transcript of the deposition of Donald J. Trump dated October 19, 2022			
PX-43	Prof. Ashlee Humphreys demonstrative exhibit			
PX-44	Truth Social video post by @realDonaldTrump (Oct. 12, 2022)			
PX-45	Tweet by @mherndon23 (Oct. 13, 2022)			
PX-46	Tweet @SkyNews by @RKeane4711 (Oct. 20, 2022)			
PX-47	Tweet @KinojaMaswali and @NYDailyNews by @rogelio06290905 (Oct. 19, 2022)			
PX-48	Tweet @NYDailyNews by @Ezekill58 (Oct. 19, 2022)			
PX-49	Email to ejeancarroll@gmail.com from frog6toad@gmail.com (Jan. 15, 2023) (CARROLL_031515)	Irrelevant & unduly prejudicial		
PX-50	Email to e.jean@askejean.com from jazzyjasperkitty@gmail.com (Oct. 13, 2022) (CARROLL_031518)	Irrelevant & unduly prejudicial		
PX-51	Tweet @ejeancarroll by @patriot_savvy (Jan. 15, 2023) (CARROLL_031542)	Irrelevant & unduly prejudicial		
PX-52	Tweet @ejeancarroll by @ToddHeadleeAZ (Nov. 3, 2022) (CARROLL_031619)	Irrelevant & unduly prejudicial		
PX-53	Tweet @ejeancarroll by @scottagain2 (Nov. 3, 2022) (CARROLL_031622)	Irrelevant & unduly prejudicial		

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-54	Tweet @ejeancarroll by @SirWinston85 (Nov. 3, 2022) (CARROLL_031625)	Irrelevant & unduly prejudicial		

B. Defendant's Exhibits

The following is a list of exhibits Defendant intends to offer in his case-in-chief:

Exhibit No.	Document Description	Plaintiff's Objections	Stipulation to Authenticity	Stipulation to Admissibility
DX-A	Bergdorf Goodman Floor Plan, floors one through ten, dated March 23, 1990 (BG_0001-0010)	None.	Yes.	Yes.
DX-B1	Bergdorf Goodman, Sixth Floor Renovation Plans (CARROLL_030800; 30804 – 30807- 30809; 30821; 30824; 30827; 30829; 30839-30840.)	Judge Kaplan's Individual Practices re Individually Listing Exhibits; FRE 401 and 403.	Yes.	No.
DX-B2	Bergdorf Goodman, Sixth Floor Demolition Plans (CARROLL_030801; 30803; 30810; 30820)	Judge Kaplan's Individual Practices re Individually Listing Exhibits; FRE 401 and 403.	Yes.	No.
DX-B3	Bergdorf Goodman, Sixth Floor Architectural Plans (CARROLL_030802; 30808; 30811 – 30819; 30822-30823; 30825 – 30826; 30828; 30830 – 30838)	Judge Kaplan's Individual Practices re Individually Listing Exhibits; FRE 401 and 403.	Yes.	No.

Exhibit No.	Document Description	Plaintiff's Objections	Stipulation to Authenticity	Stipulation to Admissibility
DX-C	Defendant's Expert Report of Robert J. Fisher dated November 13, 2022	FRE 401, 403, 702, 703, 801, and 802; FRCP 26(a)(2)(D)(ii); <i>Daubert v. Merrell Dow Pharms., Inc.</i> , 509 U.S. 579, 113 S. Ct. 2786 (1993); Stipulation re Operative Version of Report.	No.	No.
DX-D	Transcript of the Deposition of E. Jean Carroll dated October 14, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-E	Video Recording of the Deposition of E. Jean Carroll dated October 14, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-F	Transcript of the Deposition of E. Jean Carroll dated January 31, 2023	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.

Exhibit No.	Document Description	Plaintiff's Objections	Stipulation to Authenticity	Stipulation to Admissibility
DX-G	Video Recording of the Deposition of E. Jean Carroll dated January 31, 2023	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-H	Transcript of the Deposition of Lisa Birnbach dated September 21, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 602, 801, and 802.	Yes.	No.
DX-I	Transcript of the Deposition of Carol Martin dated October 18, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 602, 801, and 802.	Yes.	No.
DX-J	(Upon completion of IME) Defendant's Expert Report of Ian C. Lamoureux, M.D. and Jill Hayes, Ph.D.	Plaintiff reserves the right to make any appropriate objections based on the form of the examination and the content of the report.	No.	No.

Exhibit No.	Document Description	Plaintiff's Objections	Stipulation to Authenticity	Stipulation to Admissibility
DX-K	Defendant's Expert Report of Robert J. Fisher dated January 30, 2023	FRE 401, 403, 702, 703, 801, and 802; FRCP 26(a)(2)(D)(ii); <i>Daubert v. Merrell Dow Pharms., Inc.</i> , 509 U.S. 579, 113 S. Ct. 2786 (1993).	Yes.	No.
DX-L	Transcript of Expert Robert J. Fisher dated December 16, 2022	FRE 401, 403, 412, 702, 703, 801, and 802; FRCP 26(a)(2)(D)(ii); <i>Daubert v. Merrell Dow Pharms., Inc.</i> , 509 U.S. 579, 113 S. Ct. 2786 (1993).	Yes.	No.
DX-M	Transcript of Expert Robert J. Fisher dated December 20, 2022	FRE 401, 403, 702, 703, 801, and 802; FRCP 26(a)(2)(D)(ii); <i>Daubert v. Merrell Dow Pharms., Inc.</i> , 509 U.S. 579, 113 S. Ct. 2786 (1993).	Yes.	No.
DX-N	Transcript of Expert Robert J. Fisher dated February 6, 2023	FRE 401, 403, 702, 703, 801, and 802; FRCP 26(a)(2)(D)(ii); <i>Daubert v. Merrell Dow Pharms., Inc.</i> , 509 U.S. 579, 113 S. Ct. 2786 (1993).	Yes.	No.

V. GENERAL PROVISIONS, STIPULATIONS, AND OBJECTIONS WITH RESPECT TO EXHIBITS

Any objections not set forth herein will be considered waived absent good cause shown.

See chart above in Section IV for stipulations and objections with respect to exhibits.

VI. PLAINTIFF'S WITNESS LIST

The witnesses listed below may be called at trial. No witness not identified herein shall be permitted to testify in either party's case-in-chief absent good cause shown.

Plaintiff may call at trial the following:

- E. Jean Carroll
- Lisa Birnbach
- Carol Martin
- Cande Carroll
- Stephanie Grisham
- Roberta Myers
- Natasha Stoyloff
- Jessica Leeds
- Cheryl Beall
- Robert Salerno
- Prof. Ashlee Humphreys
- Dr. Leslie Lebowitz

VII. DEFENDANT'S WITNESS LIST

The witnesses listed below may be called at trial. No witness not identified herein shall be permitted to testify in either party's case-in-chief absent good cause shown.

Defendant may call at trial the following:

- Donald J. Trump
- Lisa Birnbach
- Anderson Cooper

- David Haskell
- Elizabeth Dysegaard
- Erin Hobday
- Laurie Abraham
- Sarah Lazin
- Robert J. Fisher
- Ian C. Lamoureux, M.D.
- Jill Hayes, Ph.D.
- Nancy Wilson, P.F., Forensic Scientist
- Alan Keel, Senior Forensic Scientist

VIII. RELIEF SOUGHT

Carroll seeks compensatory and punitive damages for the harms caused by Trump's sexual assault. Carroll also seeks an order that Trump retract the defamatory statement and seeks compensatory and punitive damages for the harms caused by Trump's defamatory statement. Finally, Carroll seeks pre- and post-judgment interest, costs, and such other and further relief as this Court may deem just and proper.

Defendant respectfully demands judgment dismissing this action in its entirety together with costs, disbursements, and all other relief this Court deems just and proper.

Dated: February 16, 2023

Respectfully submitted,

/s/ Joseph Tacopina

Joseph Tacopina
Chad Seigel
Matthew G. DeOreo
TACOPINO, SEIGEL & DEOREO
275 Madison Ave., Fl. 35
New York, New York 10016
Phone: (212) 227-8877
jtacopina@tacopinalaw.com
cseigel@tacopinalaw.com
mdeoreo@tacopinalaw.com

Alina Habba
Michael Madaio
HABBA MADAIO & ASSOCIATES LLP
1430 U.S. Highway 206, Suite 240
Bedminster, NJ 07921
Phone: (908) 869-1188
ahabba@habbalaw.com
mmadaio@habbalaw.com

Counsel for Defendant Donald J. Trump

/s/ Roberta A. Kaplan

Roberta A. Kaplan
Shawn Crowley
Trevor Morrison
Matthew J. Craig
KAPLAN HECKER & FINK LLP
350 Fifth Avenue, 63rd Floor
New York, New York 10118
Phone: (212) 763-0883
rkaplan@kaplanhecker.com
scrowley@kaplanhecker.com
tmorrison@kaplanhecker.com
mcraig@kaplanhecker.com

Joshua Matz
KAPLAN HECKER & FINK LLP
1050 K Street NW, Suite 1040
Washington, D.C. 20001
Phone: (212) 763-0883
jmatz@kaplanhecker.com

Counsel for Plaintiff E. Jean Carroll

IT IS SO ORDERED this ____ day of _____, 2023.

The Hon. Lewis A. Kaplan
United States District Judge